REMARKS

Claims 22-39, 41-68, and 70-76 are pending in the Application. Claims 22-39, 41-68, and 70-73 have been rejected in the final Office action mailed August 11, 2008. Claims 22, 45, and 54 are amended and new claims 77-79 are added by this response. Applicants submit that no new matter is added by these amendments. Claims 22, 45, and 54 are independent claims, from which claims 23-39, 41-44, and 74, claims 46-53 and 75, and claims 55-68, 70-73, and 76 depend, respectively.

Applicants respectfully request reconsideration of the rejection of claims 22-39, 41-68, and 70-73, and withdrawal of the finality of the Office action mailed August 11, 2008. Applicants respectfully submit that the finality of the prior and instant Office actions was premature. Applicants respectfully maintain that the Office has misinterpreted the teachings of the Bertland, Iwami, and Kudo references, has failed to respond to Applicants' arguments in response to the prior Office action, and respectfully submit that the Office has failed to set forth a *prima facie* case of either anticipation or obviousness, for at least the reasons set forth below. For at least these reasons, Applicants respectfully request that the finality of the instant Office action be withdrawn.

Rejections of Claims

Claims 22-24, 26, 30, 45, 49, 54-56, and 59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertland (US 5,596,573) in view of Iwami et al. (US 5,604,737, hereinafter "Iwami") and further in view of Kudo et al. (US 5,148,429, hereinafter "Kudo").

Claims 25, 31, 32, 36, 47, 48, 50, 60, 61, and 65 were rejected under 35 U.S.C. §103(a) as be unpatentable over Bertland, Iwami, and Kudo, in further view of Dinkins (US 5,678,172).

Claims 27-29, 34, 35, 57, 58, 63, and 64 were rejected under 35 U.S.C. §103(a) as be unpatentable over Bertland, Iwami, and Kudo, and further in view of Averbuch (US 5,268,933).

Claims 33, 46, and 62 were rejected under 35 U.S.C. §103(a) as be unpatentable over Bertland, Iwami, and Kudo, and further in view of Smith et al. (US 5,796,772, hereinafter "Smith").

Claims 37-39, 51-53, and 66-68 were rejected under 35 U.S.C. §103(a) as be unpatentable over Bertland, Iwami, and Kudo, and further in view of Stein (US 5,628,055).

Claims 40-44 and 69-73 were rejected under 35 U.S.C. §103(a) as be unpatentable over Bertland, Iwami and Kudo.

Applicants respectfully note that the instant Office action failed to set forth a rejection of claims 74-76. Applicants respectfully submit, therefore, that at least dependent claims 74-76 are allowable, in that the Office has failed to set forth a rejection of claims 74-76 under any subsection of 35 U.S.C. §102 or 35 U.S.C. §103.

Applicants respectfully note that all of pending claims 22-39, 41-68, and 70-73 are rejected as allegedly being obvious based on Bertland, Iwami, and Kudo, in various combinations with other references. Applicants respectfully submit that the pending claims are allowable over the proposed combinations of references for the reasons set forth during prosecution, and those that follow.

I. The Office Failed To Address Applicants' Arguments

The Applicants respectfully submit that the Office has failed to address Applicants' arguments filed April 28, 2008, which respond to the Office action mailed November 28, 2007.

The Office action mailed November 28, 2007 asserted that Bertland anticipated Applicants' claims 22, 45, and 54, stating in part:

> 2. Claims 22-24, 26, 30, 45, 49, 54-56, and 59 are rejected under 35 U.S.C. 102(e) as being anticipated by Bertland (US 5,596,573).
>
> 3. Re claim 22, claim 45, and claim 54, Bertland teaches:

> At least one converter for converting a first voice stream into outgoing digital voice data (A/D converter 21, Bertland Fig. 2);
>
> At least one processor for processing outgoing digital voice data to produce packets for transmission via the wireless packet network (packetizer 23, Bertland Fig. 2);
>
> A radio transmitter for transmitting the packets for transmission via the wireless packet network (transmitter 24, Bertland Fig. 2);
>
> A radio receiver for receiving packets via the wireless packet network (receiving messages in two-way communication, c4 37-48);
>
> The at least one processor for selectively processing the packets received via the wireless packet network to produce incoming digital voice data (combiner 28, Bertland Fig. 2); and
>
> The at least one converter for converting the incoming digital voice data to produce a second voice stream (D/A converter 26, Bertland Fig. 2)

See Office action of November 28, 2007 at pages 2-3. Applicants' response filed April 28, 2008 set forth reasons why Bertland fails to teach or suggest all of the features of claims 22, 45, and 54 as asserted by the Office. *See* Response filed April 28, 2008 at pages 13-16.

In response to Applicants' arguments of April 28, 2008, the instant Office action states "Applicant's arguments with respect to claims 22, 45, 54 have been considered <u>but are moot in view of the new ground(s) of rejection</u>." (emphasis added) *See* Office action of August 11, 2008 at page 10. Applicants respectfully submit that the rejections of claims 22, 45, and 54 in the instant office action are substantially the same as those set forth in the Office action of November 28, 2007 and repeat, verbatim, many of the rejections, including the citations from Bertland, set forth by the Office in the Office action of November 28. 2007.

Applicants respectfully submit that Office now sets forth the following rejection of claims 22, 45, and 54 at pages 2-4 (emphasis added to show changes from rejection set forth in Office action of November 28, 2007):

3. Claim 22-24, 26, 30, 45, 49, 54-56, and 59 rejected under 35 U.S.C. 103(a) as being unpatentable over Bertland (US 5,596,573) in view of Iwami et al. (US 5,604,737) and further in view of Kudo et al. (US 5,148,429).

4. Re claim 22, claim 45, and claim 54, Bertland teaches:

At least one converter for converting a first voice stream into outgoing digital voice data (A/D converter 21, Bertland Fig. 2);

At least one processor for processing outgoing digital voice data to produce packets for transmission via the wireless packet network (packetizer 23, Bertland Fig. 2);

A radio transmitter for transmitting the packets for transmission via the wireless packet network (transmitter 24, Bertland Fig. 2);

A radio receiver for receiving packets via the wireless packet network (receiving messages in two-way communication, c4 37-48);

The at least one processor for selectively processing the packets received via the wireless packet network to produce incoming digital voice data (combiner 28, Bertland Fig. 2); and

The at least one converter for converting the incoming digital voice data to produce a second voice stream (D/A converter 26, Bertland Fig. 2)

However, Bertland may not adequately teach concurrent, bi-directional voice communications. Instead, Iwami teaches this limitation:

wherein the phone supports concurrent, bidirectional voice communication (communication under progress 457, Iwami et al. Fig. 11).

Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made for a phone to support concurrent, bidirectional voice communications in a voice communication system which is connected to a LAN (Iwami et al. abstract).

The prior art does not specifically teach a processor for monitoring lack of speech for a minimum period of time. Nevertheless, Kudo teaches this limitation:

Wherein the at least one processor monitors the first voice stream for a lack of speech (voice/silence detector, Kudo et

> al. c4 21-36) for a minimum period of time (predetermined time of silence, Kudo et al. c4 21-36).
>
> Ergo, it would have been obvious to a person having ordinary skill in the art at the time the invention was made for a phone to detect voice/silence in order to provide a voice data transmission system (Kudo et al. c3 66-2).

Applicants respectfully submit that, as can be seen above, all of the arguments and the cited portions of the Bertland reference that were set forth in the rejection of November 28, 2007 have been repeated, verbatim, by the instant Office action. Therefore, Applicants respectfully submit that the arguments presented in the Response of April 28, 2008 were not rendered moot by the current rejection of claims 22, 45, and 54, in that the Office continues to assert the same arguments which rely only on Bertland.

II. The Proposed Combination Of Bertland, Iwami, And Kudo Does Not Render Claims 22-24, 26, 30, 45, 49, 54-56, and 59 Unpatentable

Claims 22-24, 26, 30, 45, 49, 54-56, and 59 were rejected under 35 U.S.C. §103(a) as being unpatentable over Bertland in view of Iwami and further in view of Kudo.

Applicants respectfully submit that the Office action has failed to establish a *prima facie* case of obviousness, in accordance with M.P.E.P. §2142. According to M.P.E.P. §2142, "[t]he examiner bears the initial burden of factually supporting any *prima facie* conclusion of obviousness. If the examiner does not produce a *prima facie* case, the applicant is under no obligation to submit evidence of nonobviousness." M.P.E.P. §2142 further states that "[t]he key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious." As recognized in M.P.E.P. §2142, "[t]he Supreme Court in *KSR International Co. v. Teleflex Inc.*, 127 S. Ct. 1727 (2007), 82 USPQ2d 1385, 1396 noted that the analysis supporting a rejection under 35 U.S.C. 103 should be made explicit." In addition, the Federal Circuit has made clear that "rejections on obviousness cannot be sustained with mere conclusory statements; instead, there must be some articulated

reasoning with some rational underpinning to support the legal conclusion of obviousness." *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). See also *KSR,* 127 S. Ct. 1727 (2007), 82 USPQ2d at 1396.

With regard to claims 22, 45, and 54, Applicants respectfully submit that the Office has misinterpreted the language of claims 22, 45, and 54, which are drawn to "[a] **phone** supporting voice communication via a wireless packet network...", "[a] **phone** circuit supporting voice communication via a wireless packet network...", and "[a] method of operating a **phone** supporting voice communication via a wireless packet network...", respectively.

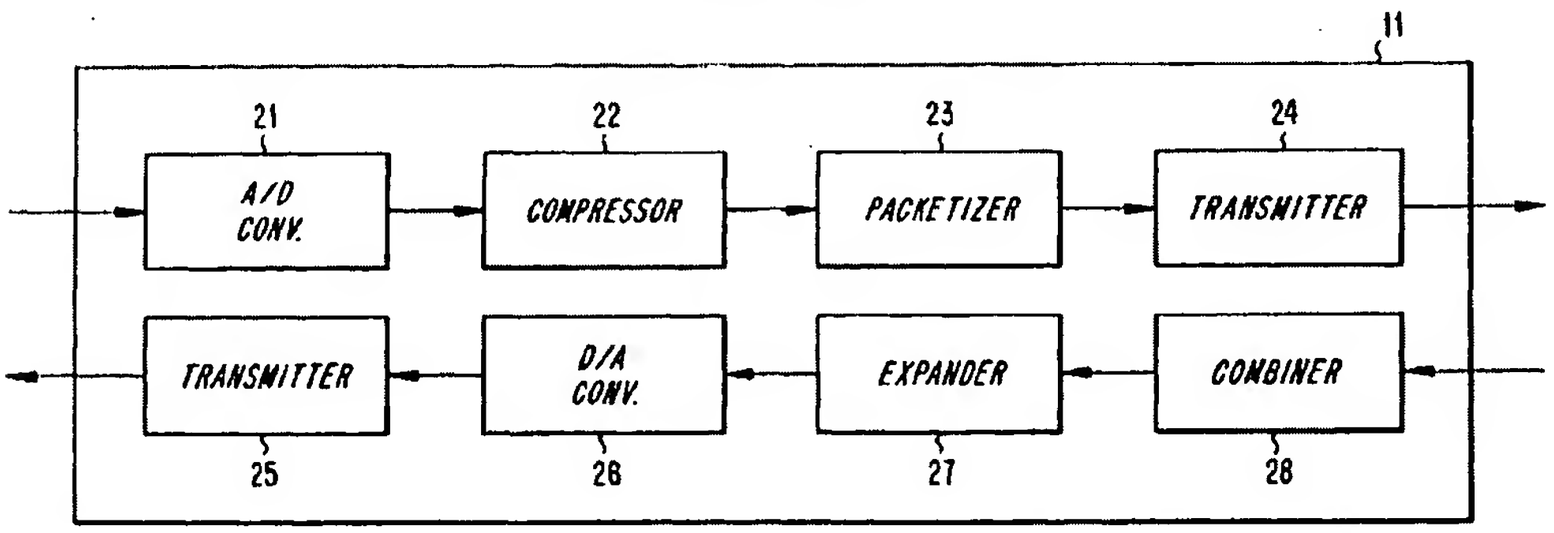
Applicants respectfully submit that the term "phone" is a well known shortened form of the term "telephone" that is in common usage and that would be instantly and unquestioningly recognized by one of ordinary skill in the relevant art as a device that permits concurrent, bidirectional voice communication during a "telephone call."

Applicants respectfully maintain that the Bertland reference relates to "...a method for transferring voice **messages**." *See* column 1, lines 5-6. Bertland clearly discloses that the invention makes it possible to transfer voice **messages** to a "mobile terminal" via a "packet-switched narrow-band radio data network" that can be "...a paging system, MOBITEX® or another network of equivalent type." See column 3, line 1 to column 4, line 20. Applicants respectfully submit that a "paging system" is not the same as and does not teach or function in the manner of a "public telephone system" used to support voice communication between "phones" or "telephones".

The Office asserts, in part at page 2, that Bertland teaches"...At least one converter for converting a first voice stream into outgoing digital voice data (A/D converter 21, Bertland Fig. 2); At least one processor for processing outgoing digital voice data to produce packets for transmission via the wireless packet network (packetizer 23, Bertland Fig. 2); A radio transmitter for transmitting the packets for transmission via the wireless packet network (transmitter 24, Bertland Fig. 2); A radio receiver for receiving packets via the wireless packet network (receiving messages in two-way communication, c4 37-48); The at least one processor for selectively processing the packets received via the wireless packet network to produce incoming

digital voice data (combiner 28, Bertland Fig. 2); and The at least one converter for converting the incoming digital voice data to produce a second voice stream (D/A converter 26, Bertland Fig. 2)...." Applicants respectfully note that the Office cites only to Bertland, and only elements 21, 23, 24, 26, and 28 of Fig. 2 and column 4, lines 37-48 of Bertland as teaching these features of Applicants' claims 22, 45, and 54. Applicants now address the alleged teachings of Fig. 2 of Bertland, which as Bertland states "...shows an exemplary block diagram of a gateway according to the invention", and which has been reproduced below:

FIG. 2



Bertland provides additional information at column 3, lines 46-55, which state:

> Placed "between" the two networks 5 and 7 is a significant part for the invention, i.e. the gateway 11, shown in FIG. 2. **This unit converts a message received from the public telephone network to a format that is adapted to the packet-switched narrow band radio data network and it also converts a message received from the packet-switched narrow band radio data network to a format that is acceptable by the public telephone network.** The physical placement of the gateway can vary-technically it can belong to any one of the networks without influencing the function of the device.

The portion of Bertland shown above teaches that Fig. 2 is a "gateway" that " converts a message received **from the public telephone network** to a format that is adapted to **the packet-switched narrow band radio data network** and it also converts

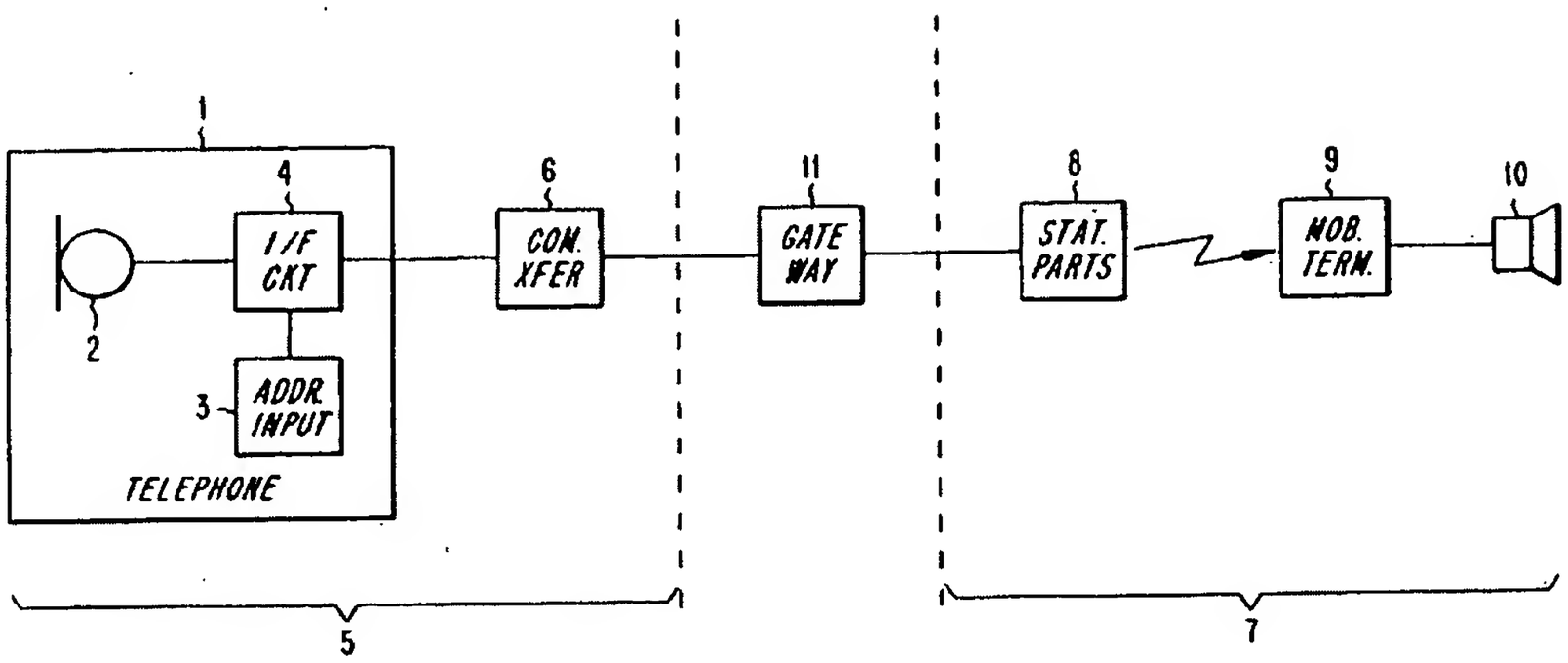
a message received **from the packet-switched narrow band radio data network** to a format that is acceptable by **the public telephone network**...." Thus, Bertland teaches that the "gateway 11" converts the format of voice messages **between different networks**. Bertland teaches that Fig. 2 illustrates a gateway that connects between networks, and that all of cited elements 21, 23, 24, 26, and 28 are in the gateway. Applicants respectfully submit that the gateway of Bertland is different from and **does not** teach or suggest a "phone" or "telephone". In addition, Bertland does not teach or suggest that the "gateway 11", or any of the elements 21, 23, 24, 26, and 28 of "gateway 11", might reside in a "phone" or "telephone". Therefore, Applicants respectfully submit that nothing in Fig. 2, including the elements 21, 23, 24, 26, and 28 of Fig. 2 cited by the Office, teaches or suggests a "phone" or "telephone" having the features recited in claims 22, 45, and 54. Moreover, the Office fails to provide any explanation or interpretation of Bertland that describes how the elements 21, 23, 24, 26, and 28 of "gateway 11" of Bertland teach or suggest Applicants' claimed "phone".

Applicants now address the cited portion of Bertland at column 4, lines 37-48, which states:

> In the above-described device the invention has been used for transfer of voice messages from a telephone in a public telephone network to a mobile terminal in a packet-switched narrow band radio data network. Many of the packet-switched radio networks are however meant for traffic in both directions. The invention is used in such networks for two-way communication by means of supplementing the terminals with a microphone and means for analog-digital conversion and for compression. In a corresponding manner, the gateway has also to be provided with means for expansion 27, combining 28, and digital-analog conversion 26 and transmitter 28.

The cited portion of Bertland shown above simply teaches that the invention of Bertland may be used in two way packet-switched radio networks by adding a microphone, a means of analog to digital conversion, and means for compression to one of the "terminals" described by Bertland. Bertland differentiates a "terminal" from a "phone/telephone" in Fig. 1, as shown below:

FIG. 1



It is clear from the above illustration that Bertland teaches that a "telephone" ("telephone 1") resides in a different type of network (i.e., "public telephone network 5") from a "terminal" ("mobile terminal 9" in "packet-switched radio data network 7"), and that "gateway 11" interconnects the "public telephone network 5" and "packet-switched radio data network 7." There is no teaching or suggestion in Fig. 1 of Bertland, however, that the "gateway 11", or the cited elements 21, 23, 24, 26, and 28 of "gateway 11" of Fig. 2 function as a "phone/telephone", or are to be located in "telephone 1" of "public telephone network 5."

Further, to the extent that the Office is suggesting that "telephone 1" of Fig. 1 be modified to include elements 21, 23, 24, 26, and 28 of Fig. 2 of Bertland, Applicants respectfully submit that such a modification would render the "telephone 1" unusable in the "public telephone network 5", as the "telephone 1" so modified would "...convert[] a message received from the public telephone network to a format that is adapted to the packet-switched narrow band radio data network...", and that the "public telephone network 5" in which Bertland places the "telephone 1" is not a "packet-switched narrow band radio data network". Thus, by making such a modification, the "telephone 1" would be made in-operable for use in the "public telephone network 5" shown in Fig.1. Applicants respectfully submit that use the "telephone 1" was intended to be used in the "public telephone network 5". The M.P.E.P. clearly states, at §2143.01(V):

> If proposed modification would render the prior art invention being modified unsatisfactory for its intended

> purpose, then there is no suggestion or motivation to make the proposed modification. *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984)

Thus, Applicants respectfully submit that there is no suggestion or motivation to make such a combination of the elements of the "gateway 11" and the "telephone 1" of Bertland.

The Applicants appreciate recognition by the Office that "...Bertland may not adequately teach concurrent, bidirectional voice communications...", and that "...the prior art does not specifically teach a processor for monitoring lack of speech for a minimum period of time." *See* Office action of August 11, 2008 at page 3. Although the Office then relies on Iwami and Kudo to remedy these admitted shortcomings of Bertland, the Office cites only Bertland with respect to the features discussed above, and fails to show how and why either Iwami or Kudo overcome these deficiencies. Therefore, Applicants respectfully submit that the Office has not established a *prima facie* case of obviousness with respect to at least the features discussed above on which it relies solely on Bertland, and that the proposed combination of Bertland, Iwami, and Kudo does not render Applicants' claims 22, 45, and 54 unpatentable for at least the reasons set forth above.

With regard to the assertion by the Office that Kudo teaches "...wherein the at least one processor monitors the first voice stream for a lack of speech for a minimum period of time...", Applicants respectfully disagree. Applicants now address the cited portion of Kudo at column 4, lines 21-36, which is shown below:

> In accordance with another aspect of the present invention, the signal transmission side transmits, to the signal reception side, a voice packet signal attached in its head part with packets corresponding to packets which belong to the head part and which were regarded as nonvoices by a voice/silence detector. The signal reception side, when receiving a voice packet signal followed by the continuation of a predetermined time of silence (voice absence state), estimates a fluctuation absorbing delay time for the voice packet signal on the basis of transmission delay times between packets corresponding to its head part, attaches packets, corresponding in number to the estimated

> fluctuation absorbing delay time, to the head part of the received voice packet signal, and reproduces the attached signal.

(emphasis added)

Applicants respectfully submit that the portion of Kudo shown above teaches that the "signal **reception** side", when **receiving** a voice packet signal followed by the continuation of a predetermined time of silence (voice absence state), estimates a fluctuation absorbing delay time for the voice packet signal.

Applicants respectfully submit that claim 22 recites, in part, "...wherein the at least one processor monitors the first voice stream [to be **transmitted** in packets via the wireless network] for a lack of speech for a minimum period of time...." Applicants respectfully submit that claim 45 similarly recites, in part, "...wherein the at least one processor monitors the first digital representation of sound [to be **transmitted** in packets via the wireless network] for a lack of speech for a minimum period of time...." Applicants respectfully submit that claim 54 similarly recites, in part, "...wherein processing the outgoing digital voice data comprises monitoring the outgoing digital voice data [to be **transmitted** in packets via the wireless network] for a lack of speech for a minimum period of time...."

Therefore, Applicants respectfully submit that claims 22, 45, and 54 recite monitoring **on the transmit side**, before packetization and transmission. Applicants respectfully submit that the "signal **reception** side" of Kudo, that when **receiving** a "**voice packet** signal" followed by the continuation of a "predetermined time of silence", "estimates a fluctuation absorbing delay" does not teach or suggest "...wherein the at least one processor monitors the first voice stream [to be **transmitted** in packets via the wireless network] for a lack of speech for a minimum period of time...", in accordance with Applicants' claim 22. Similarly, this disclosure of Kudo also does not teach or suggest "...wherein the at least one processor monitors the first digital representation of sound [to be **transmitted** in packets via the wireless network] for a lack of speech for a minimum period of time...", in accordance with Applicants' claim 45; and "...wherein processing the outgoing digital voice data comprises monitoring the outgoing digital

voice data [to be **transmitted** in packets via the wireless network] for a lack of speech for a minimum period of time...", in accordance with Applicants' claim 54. This aspect is patentably distinct over Bertland. Therefore, Applicants respectfully submit that the portion of Kudo at column 4, lines 21-36, which was specifically cited by the Office, does not teach or suggest at least the above aspects of Applicants' claims 22, 45, and 54. Because the Office admitted that Bertland does not teach this feature of Applicants' claims 22, 45, and 54, Applicants have shown that Kudo does not teach at least this feature of Applicants' claims 22, 45, and 54, and the Office has failed to show where Iwami teaches this feature, it necessarily follows that the proposed combination of Bertland, Iwami, and Kudo cannot teach or suggest this feature of Applicants' claims 22, 45, and 54.

In addition, Applicants respectfully submit that the Office states the following regarding shortcomings of Bertland and support by Iwami and Kudo, at page 3-4:

> However, Bertland may not adequately teach concurrent, bi-directional voice communications. Instead, Iwami teaches this limitation:
>
> wherein the phone supports concurrent, bidirectional voice communication (communication under progress 457, Iwami et al. Fig. 11).
>
> Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made for a phone to support concurrent, bidirectional voice communications in a voice communication system which is connected to a LAN (Iwami et al. abstract).
>
> The prior art does not specifically teach a processor for monitoring lack of speech for a minimum period of time. Nevertheless, Kudo teaches this limitation:
>
> Wherein the at least one processor monitors the first voice stream for a lack of speech (voice/silence detector, Kudo et al. c4 21-36) for a minimum period of time (predetermined time of silence, Kudo et al. c4 21-36).
>
> Ergo, it would have been obvious to a person having ordinary skill in the art at the time the invention was made for a phone to detect voice/silence in order to provide a voice data transmission system (Kudo et al. c3 66-2).

Applicants respectfully submit that the portion of the Office action shown above, which attempts to show teachings in Iwami and Kudo that overcome the deficiencies of

Bertland, fails to meet the requirements of M.P.E.P. §2142 needed to establish a *prima facie* case of obviousness. The assertions by the Office simply admit a shortcoming, recite a portion of Applicants' claim, point the Applicants to a portion of a reference, and make the conclusory statement that "...it would have been obvious to a person having ordinary skill in the art at the time the invention was made for <portion of text from reference>." The Office action fails to set forth "...clear articulation of the reason(s) why the claimed invention would have been obvious...", which is recognized by the Office as "[t]he key to supporting any rejection under 35 U.S.C. 103...." See M.P.E.P. §2142. Further, the Federal Circuit has made clear that "rejections on obviousness **cannot be sustained with mere conclusory statements**; instead, **there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness**." *See id.*

Applicants respectfully note that the "motivation" set forth by the Office for modifying Bertland by the teachings of Iwami, namely:

> Therefore, it would have been obvious to a person having ordinary skill in the art at the time the invention was made for a phone to support concurrent, bidirectional voice communications in a voice communication system which is connected to a LAN (Iwami et al. abstract).

is not supported by the portion of Iwami cited by the Office. Iwami states, at the Abstract:

> A voice communication system, which is connected to a LAN to which communication terminals are connected and to a public network to which telephones are connected, is provided with a communication server between the LAN and public network having different protocols from each other. The communication server enables a voice communication between a telephone on the public network and a communication terminal connected to the LAN by performing processing similar to that for a voice communication between two communication terminals connected to the LAN. The communication server determines whether an address of the other party inputted by a user is a communication terminal address or a telephone number, and transmits a voice communication request to a

> communication terminal of the other party when the address is a communication terminal address. When the address is a telephone number, the user acquires the communication terminal address of the communication server, and transmits a voice communication request to the communication server. Thereafter, the voice communication processing is performed through the communication server.

Applicants respectfully submit that the cited portion of Iwami shown above makes no mention of "...concurrent, bidirectional voice communications...."

Applicants respectfully submit that, for at least the reasons set forth above, the Office has failed to establish a *prima facie* case of obviousness, in accordance with M.P.E.P. §2142, and that the proposed combination of Bertland, Iwami, and Kudo does not render Applicants' claims 22, 45, and 54 unpatentable. In addition, because pending claims 23-39, 41-44, and 74, claims 46-53 and 75, and claims 55-68, 70-73, and 76 depend, respectively, from allowable claims 22, 45, and 54, Applicants respectfully submit that dependent claims 23-39, 41-44, 46-53, 55-68, and 70-76 are also allowable over the proposed combination of Bertland, Iwami and Kudo, for at least the same reasons. Accordingly, Applicants respectfully request that the rejection of claims 22-24, 26, 30, 45, 49, 54-56, and 59 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

III. The Proposed Combination Of Bertland, Iwami, Kudo, And Dinkins Does Not Render Claims 25, 31, 32, 36, 47, 48, 50, 60, 61, And 65 Unpatentable

Claims 25, 31, 32, 36, 47, 48, 50, 60, 61, and 65 were rejected under 35 U.S.C. §103(a) as be unpatentable over Bertland, Iwami, and Kudo, in further view of Dinkins.

Applicants respectfully submit that claims 25, 31, 32, and 36, claims 47, 48, and 50, and claims 60, 61, and 65 depend, respectively, from claims 22, 45, and 54. Applicants believe that claims 22, 45, and 54 are allowable over the proposed combination of references, in that the Office has failed to set forth a reasoned explanation of how and why Dinkins overcomes the shortcomings of Bertland, Iwami, and Kudo, set forth above, as required by M.P.E.P. §2142. Because claims 22, 45, and

54 are allowable over the proposed combination of references, Applicants respectfully submit that claims 25, 31, 32, 36, 47, 48, 50, 60, 61, and 65 are also allowable, for at least the same reasons. Therefore, Applicants respectfully request that the rejection of claims 25, 31, 32, 36, 47, 48, 50, 60, 61, and 65 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

IV. The Proposed Combination Of Bertland, Iwami, Kudo, And Averbuch Does Not Render Claims 27-29, 34, 35, 57, 58, 63, And 64 Unpatentable

Applicants respectfully submit that claims 27-29, 34, and 35, and claims 57, 58, 63, and 64 depend from claims 22 and 54, respectively. Applicants believe that claims 22 and 54 are allowable over the proposed combination of references, in that the Office has failed to set forth a reasoned explanation of how and why Averbuch overcomes the shortcomings of Bertland, Iwami, and Kudo, set forth above, as required by M.P.E.P. §2142. Because claims 22 and 54 are allowable over the proposed combination of references, Applicants respectfully submit that claims 27-29, 34, 35, 57, 58, 63, and 64 are also allowable, for at least the same reasons. Therefore, Applicants respectfully request that the rejection of claims 27-29, 34, 35, 57, 58, 63, and 64 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

V. The Proposed Combination Of Bertland, Iwami, Kudo, And Smith Does Not Render Claims 33, 46, And 62 Unpatentable

Applicants respectfully submit that claims 33, 46, and 62 depend from claims 22, 45, and 54, respectively. Applicants believe that claims 22, 45, and 54 are allowable over the proposed combination of references, in that the Office has failed to set forth a reasoned explanation of how and why Smith overcomes the shortcomings of Bertland, Iwami, and Kudo, set forth above, as required by M.P.E.P. §2142. Because claims 22, 45, and 54 are allowable over the proposed combination of references, Applicants respectfully submit that claims 33, 46, and 62 are also allowable, for at least the same reasons. Therefore, Applicants respectfully request that the rejection of claims 33, 46, and 62 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

VI. The Proposed Combination Of Bertland, Iwami, Kudo, And Stein Does Not Render Claims 37-39, 51-53, And 66-68 Unpatentable

Applicants respectfully submit that claims 37-39, 51-53, and 66-68 depend from claims 22, 45, and 54, respectively. Applicants believe that claims 22, 45, and 54 are allowable over the proposed combination of references, in that the Office has failed to set forth a reasoned explanation of how and why Stein overcomes the shortcomings of Bertland, Iwami, and Kudo, set forth above, as required by M.P.E.P. §2142. Because claims 22, 45, and 54 are allowable over the proposed combination of references, Applicants respectfully submit that claims 37-39, 51-53, and 66-68 are also allowable, for at least the same reasons. Therefore, Applicants respectfully request that the rejection of claims 37-39, 51-53, and 66-68 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

VII. The Proposed Combination Of Bertland, Iwami, And Kudo Does Not Render Claims 40-44 And 69-73 Unpatentable

Applicants respectfully submit that claims 40-44 and 69-73 depend from claims 22 and 54, respectively. Applicants believe that claims 22 and 54 are allowable over the proposed combination of references, for at least the reasons set forth above. Because claims 22 and 54 are allowable over the proposed combination of references, Applicants respectfully submit that claims 40-44 and 69-73 are also allowable, for at least the same reasons. Therefore, Applicants respectfully request that the rejection of claims 40-44 and 69-73 under 35 U.S.C. §103(a) be reconsidered and withdrawn.

Newly Added Claims

Applicants have added new dependent claims 77, 78, and 79 that depend from claims 22, 45, and 54, respectively. Support for new claims 77-79 may be found, for example, at pages 300-301 of the Application. Applicants respectfully submit that new claims 77-79 do not add new matter. Applicants also respectfully submit that new claims 77-79 are allowable, for at least the reason that they depend from allowable independent claims 22, 45, and 54, respectively.

Conclusion

In general, the Office Action makes various statements regarding the claims and the cited references that are now moot in light of the above. Thus, Applicants will not address such statements at the present time. However, Applicants expressly reserve the right to challenge such statements in the future should the need arise (e.g., if such statements should become relevant by appearing in a rejection of any current or future claim). An early Office Action on the merits and allowance of claims 22-39, 41-68, and 70-79 is respectfully requested.

Applicants respectfully submit that the claims of the present application should be in condition for allowance for at least the reasons discussed above. Applicants respectfully request that the finality of the Office action be withdrawn, and that the outstanding rejections be reconsidered. If the Examiner has any questions or Applicants can be of any assistance, the Examiner is invited to contact the undersigned.

The Commissioner is hereby authorized to charge the fee $810 under 37 C.F.R. §1.17(e) for the RCE and any other fees required by this submission, or to credit any overpayment, to the Deposit Account of McAndrews, Held & Malloy, Ltd., Account No. 13-0017.

Respectfully submitted,

Dated: November 3, 2008

By /Kevin E. Borg/
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